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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,595	08/06/2003	Robert D. Ohler	71,001-005	1383

27305 7590 05/23/2005

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EXAMINER

AVERY, BRIDGET D

ART UNIT

PAPER NUMBER

3618

DATE MAILED: 05/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.		Applicant(s)	
	10/635,595		OHLER, ROBERT D.	
	Examiner		Art Unit	
	Bridget Avery		3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2003.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 7 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-25, 27 and 28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>08/06/03</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This application contains claims directed to the following patentably distinct species of the claimed invention: Species I (Figures 1-3) and Species II (Figures 4 and 5).
2. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1-6, 8-15, 20-24 and 27 are generic.
3. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.
4. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).
5. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over

the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

6. During a telephone conversation with Robert L. Stearns Reg. No. 36,937 on April 27, 2005 a provisional election was made without traverse to prosecute the invention of Species II (Figures 4 and 5), claims 1-6, 8-25, 27 and 28. Affirmation of this election must be made by applicant in replying to this Office action. Claims 7 and 26 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

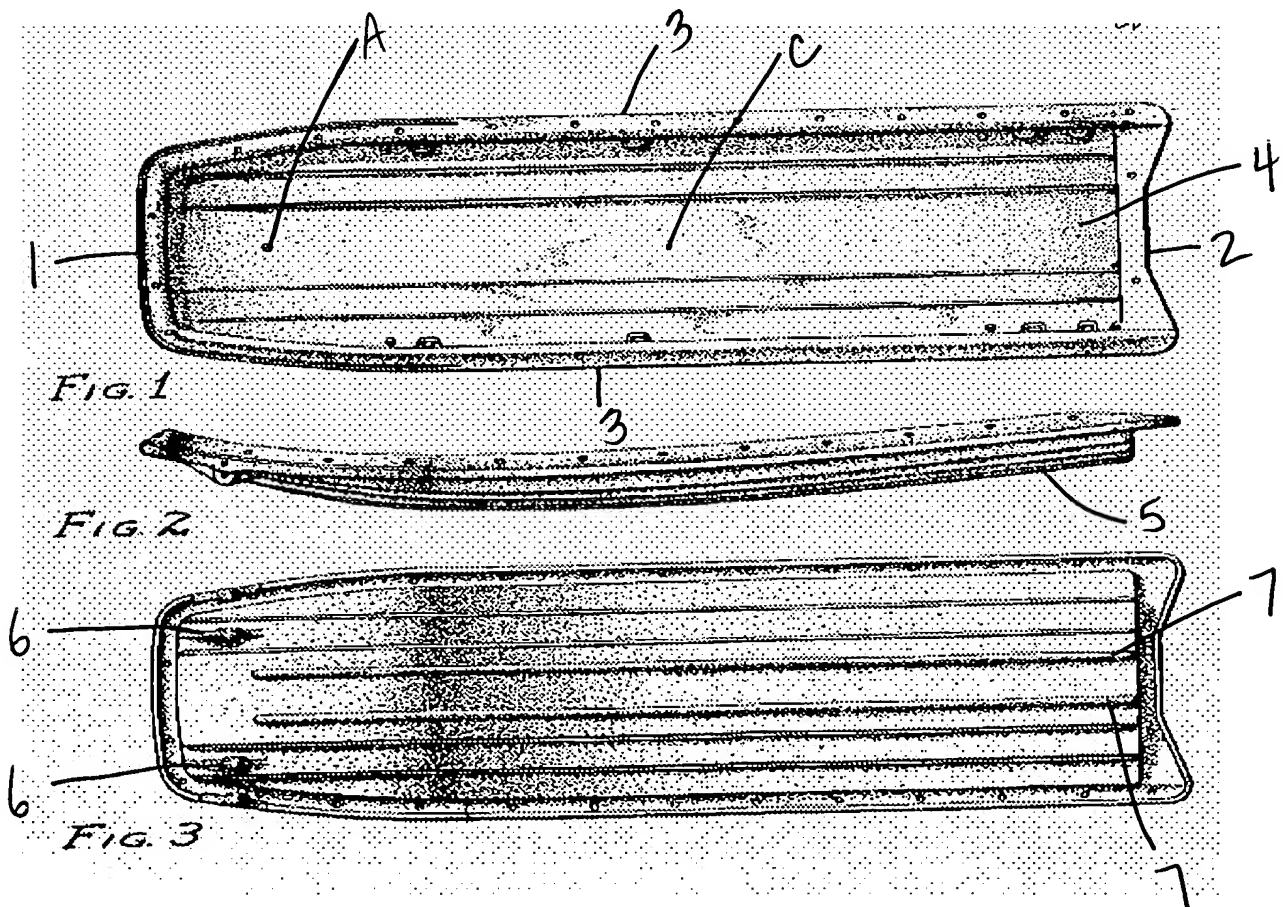
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

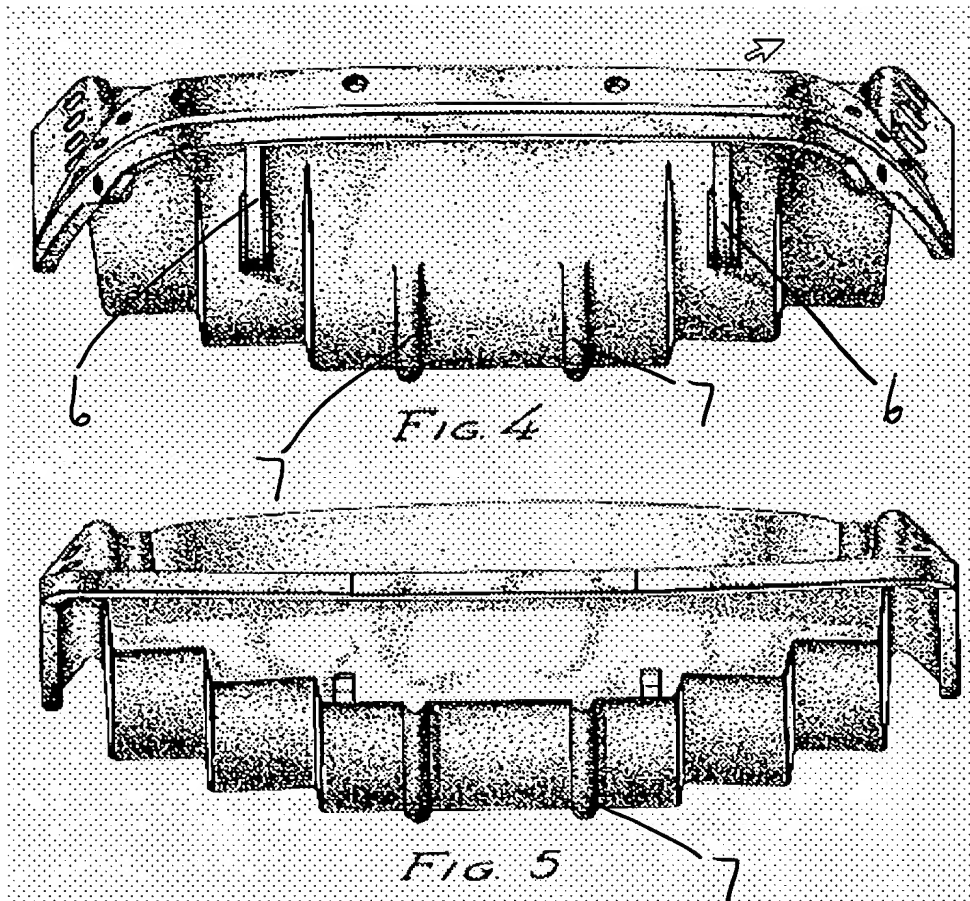
7. Claims 1, 4-6 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Sovia (US Design Patent 236,963).

Sovia teaches a toboggan/sled including a body having front and rear ends (1, 2), sides (3) and top and bottom surfaces (4, 5) and an axis (A) extending longitudinally from said front end (1) to said rear end (2) dividing said body into two longitudinal symmetrical halves, and a pair of front runners (6) extending arcuately in the longitudinal direction along said bottom surface (5) from said front end toward the longitudinal middle of said body, as shown in Figure 4, and disposed on opposite sides

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of said axis (A), as clearly shown in Figures 1 and 3, a plurality of rear runners (7) extending longitudinally straight along said bottom surface (5) from said rear end (2) toward said middle (C) of said body, and a major portion of the extent of said front runners (6) being devoid of longitudinal overlap with said rear runner (7) and a major portion of the extent of said rear runner (7) being devoid of longitudinal overlap with the front runners (6) whereby said front runners (6) lead into said rear runners (7) adjacent the middle (C) of said body. The rear runners (7) are disposed on opposite sides of the longitudinal axis (A) and closer to the longitudinal axis (A) than the front runners (6). The body includes a downwardly extending center surrounded by a peripheral flange.





### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sovia (US Design Patent 236,963) in view of Johnson (US Patent 3,937,482).

Sovia teaches the features described above including front runners.

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Sovia lacks the teaching front runners that curve toward one another.

Based on the teachings of Johnson, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to modify the front runners of Sovia to curve toward one another to enhance steering ability and allow the sled to be turned by the passengers leaning towards one side or the other to allow the curved runners to bite into the snow and turn the sled.

9. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sovia (US Design Patent 236,963) in view of Stedman (US Patent 4,878,980).

Sovia teaches the features described above including a first pair of rear runners.

Sovia lacks the teaching of a second pair of rear runners.

Stedman teaches a board having a first and second pair of rear runners disposed on opposite sides of a longitudinal axis. The pairs of rear runners including one set of rear runners having front ends positioned closer to the front end of the sled than the front ends of the other set of rear runners.

Based on the teachings of Stedman, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to modify the sled of Sovia to include a second pair of rear runners positioned adjacent the existing first pair of rear runners and closer to the longitudinal axis than the existing pair of front runners where the pairs of rear runners include one set of rear runners having front ends positioned closer to the front end of the sled than the front ends of the other set of rear runners to

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increase rider control and maximum speed of he sled, as taught in column 2, lines 12-14.

10. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sovia (US Design Patent '963) and Stedman ('980), as applied to claim 10 above and further in view of Woo (US Design Patent 495,391).

The combination of Sovia and Stedman teach the features described above.

The combination of Sovia and Stedman lack the teaching of rear runners that taper from the front end to a wide section adjacent the rear end of the sled.

Woo teaches a sled with rear runners that taper from the front end thereof to a wide section adjacent the rear end of the sled.

Based on the teachings of Woo, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to modify the combination of Sovia and Stedman to include rear runners that taper from the front end thereof to a wide section adjacent the rear end of the sled to enhance the bite of the runners into the sliding surface.

11. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sovia (US Design Patent '963) in view of Lavecchia et al. (US Patent 5,868,405).

Sovia teaches the features described above.

Sovia lacks the teaching of straight guide runner.

Lavecchia et al. teaches a straight guide runner (18).



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Based on the teachings of Lavecchia et al., it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to modify the sled of Sovia to include a central guide runner to balance and stabilize the sled.

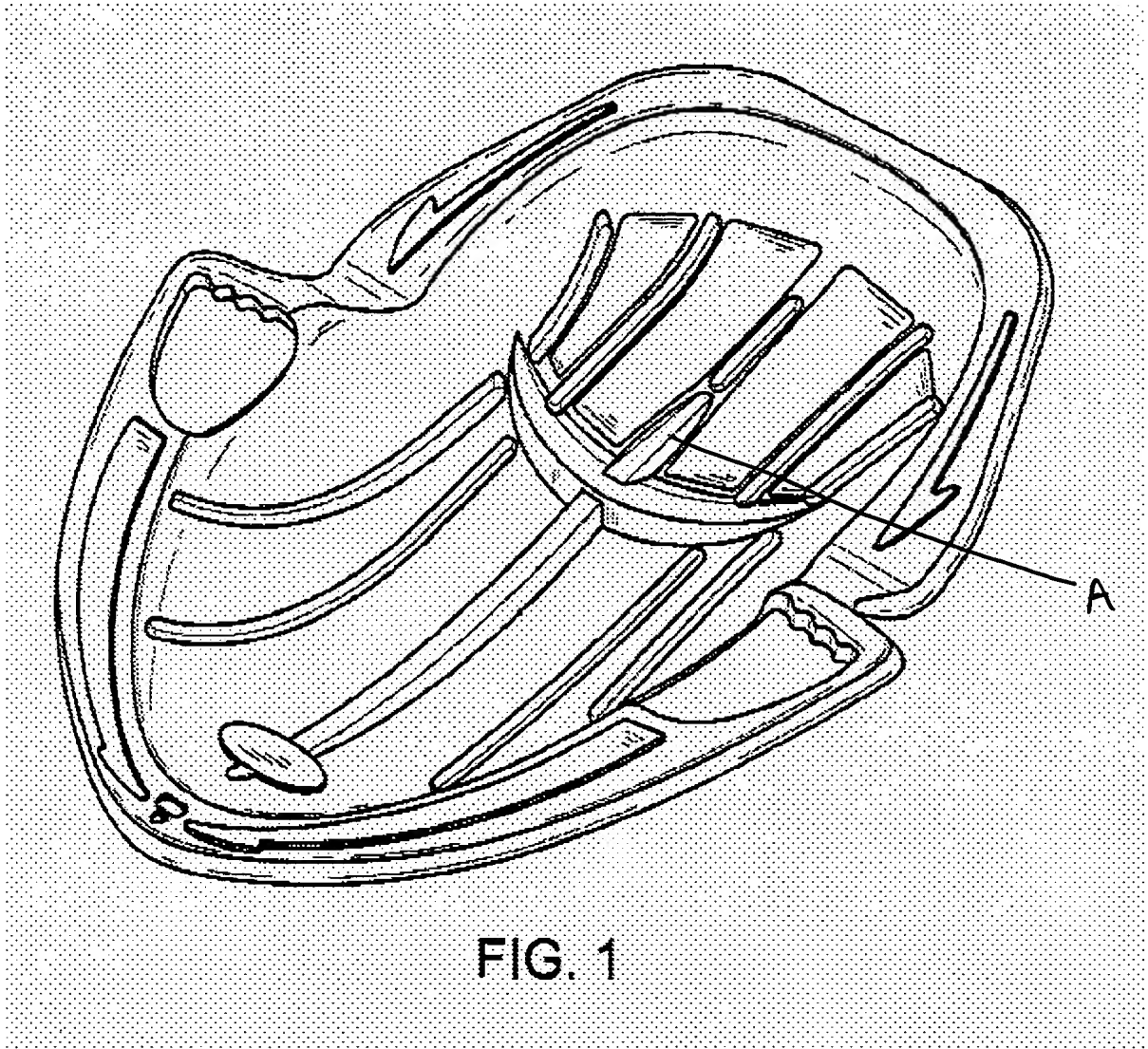
12. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sovia (US Design Patent '963) and Lavecchia et al. (US Patent 5,868,405), as applied to claim 12 above, and further in view of Eckert (US Design Patent 476,267).

The combination of Sovia and Lavecchia teach the features described above.

The combination of Sovia and Lavecchia lack the teaching of straight guide runner that taper in a narrowing fashion from the front end toward of a middle of the sled body.

Eckert teaches a straight guide runner (A) that tapers in a narrowing fashion from the middle toward of a rear end of the sled body.

Based on the teachings of Eckert, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to modify the combination of Sovia and Lavecchia to include a central guide runner that tapers in a narrowing fashion from the front end to a middle of the sled body to stabilize the sled body while providing the least amount of resistance in the direction of sliding.



13. Claims 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sovia (US Design Patent '963) in view of Sellers (US Patent 6,776,424).

Sovia teaches the features described above.

Sovia lacks the teaching of a brake ridge.

Sellers teaches a brake ridge (48) adjacent the rear end of the sled body (10).

The brake ridge (48) includes a plurality of teeth separated by a plurality of interleaved

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arches. The brake ridge (48) is disposed on and extending upwardly from an inclined section of the sled body (10). See Figure 4.

Based on the teachings of Sellers, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to modify the sled of Sovia to include a braking ridge to provide the rider with an effective way to create drag and brake the sled for safety. Regarding claim 17, it would have been obvious to one having ordinary skill in the art, at the time the invention was made to extend the rear runners outwardly from the sled body further than the brake ridge to ensure smooth sliding when braking is not desired.

14. Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sovia (US Design Patent '963) in view of Weeks (US Patent 5,957,471).

Sovia teaches the features described above.

Sovia lacks the teaching of a peripheral flange having a wasted middle including a pair of notches in the flange on either side of the middle where the flange bulges outwardly between the notches and the front and rear corners to define an hourglass-like shape.

Weeks teaches a sled having a wasted middle including a pair of notches in the flange on either side of the middle where the sled bulges outwardly between the notches and the front and rear corners to define an hourglass-like shape.

Based on the teachings of Weeks, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to modify the flange of Sovia

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to include a wasted middle including a pair of notches in the flange to define an hourglass-like shape to form a relatively wide front end surface to facilitate floating of the leading edge of the vehicle as opposed to having a tendency to dig or dive into the snow and to form a relatively wide rear end surface to provide a wider seating area on the top deck to ensure the rider that he and his clothing are fully contained with the vehicle and do not slide on the ground, as taught in column 3, lines 3-10.

15. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sovia (US Design Patent '963) and Weeks (US Patent 5,957,471), as applied to claim 23 above, and further in view of Fitzgerald (US Design Patent 476,266).

The combination of Sovia and Weeks teach the features described above.

The combination of Sovia and Fitzgerald lack the teaching of a leading point on the peripheral flange at the center axis at the front end of the sled and a trailing point on the peripheral flange at the center axis at the rear end of the sled.

Cashmere teaches a sled including a flange with a leading point and a trailing point.

Based on the teachings of Fitzgerald, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to modify the combination of Sovia and Weeks to include a leading point on the flange at the center axis at the front end of the sled and a trailing point on the flange at the center axis at the rear end of the sled to enhance directional stability of the sled.

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16. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sovia (US Design Patent '963) in view of Smith (US Patent 5,687,977).

Sovia teaches the features described above.

Sovia lacks the teaching of fabricating the sled body of a single sheet of plastic material.

Smith teaches a sled body fabricated of a single sheet of plastic material (see column 9, lines 21-26.

Based on the teachings of Smith, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to fabricate the sled body of Sovia of a single sheet of plastic material to keep manufacturing cost low.

17. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sovia (US Design Patent '963) and Smith (US Patent 5,687,977), as applied to claim 27 above, and further in view of Sellers (US Patent 6,776,424).

The combination of Sovia and Smith teach the features described above.

The combination of Sovia and Smith lack the teaching of a braking ridge.

Sellers teaches a braking ridge (48) adjacent the rear end of the sled body (10).

Based on the teachings of Sellers, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to modify the sled of Sovia to include a braking ridge to provide the rider with an effective way to create drag and brake the sled for safety.

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**Conclusion**

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Maass shows a snow glider.

Andrew et al. shows a vehicle for ice and snow.

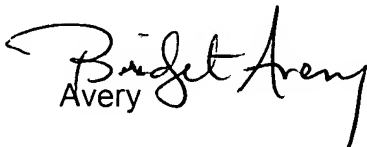
Milovich et al. shows a snow surfboard with stepped stabilizing sides.

Demaree et al. shows a one-piece plastic sled.


Chiang shows a board of swim.

Heniges shows a slalom toboggan.

19. Any inquiry concerning this communication should be directed to Bridget Avery at telephone number 571-272-6691.

  
Avery

May 2, 2005

  
PAUL N. DICKSON  
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